IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE P.R.RAMAN

THURSDAY, THE 18TH OCTOBER 2007 / 26TH ASWINA 1929

CRP.No. 1404 of 1999(I)

AA.225/1990 of APPELLATE AUTHORITY,(LR),KANNUR
O.A.NO.3/98 OF THE SPL. DY. COLLECTOR, LAND TRIBUNAL, PALAKKAD.

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REVN. PETITIONERS:

1. KELOTH PUTHIYAPURAYIL DEVAKI, KANNAPURAM AMSOM AND DESOM, KANNUR DIST.

2. KELOTH PUTHIYA PURAYIL NARAYANI, -DO- -DO-

3. KELOTH PUTHIYAPURAYIL JANU, -DO- -DO-

4. KELOTH PUTHIYAPURAYIL SANTHA, -DO- -DO

BY ADV. SRI.M.A.MANHU

RESPONDENTS:

1. K.P.KUNHU KRISHNAN NAIR, KANAPURAM AMSOM AND DESOM, KANNUR TALUK, KANNUR DIST.

2. STATE OF KERALA, REPRESENTED BY THE CHIEF SECRETARY, SECRETARIAT, TRIVANDRUM.

R1 BY ADV. SRI.M.J.JOHNSON
R2 BY GOVT.PLEADER SRI PUZHAKKARA MUHAMMED

THIS CIVIL REVISION PETITION HAVING BEEN FINALLY HEARD ON 18/10/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

P.R.RAMAN, J.

C.R.P.No.1404 OF 1999

Dated this the 18th day of October, 2007

O R D E R

Petitioners are appellants in A.A.No.225/90 on the file of the Appellate Authority (LR), Kannur and also respondents in O.A.No.3/1988 on the file of the Special Deputy Collector, Land Tribunal, Palakkad. The lst respondent herein applied for resumption under Section 13 of the Kerala Land Reforms Act of an extent of 1 acre 10 cents in Sy.No.183/4 of Kannapuram Village in Kannur Taluk. Originally, this application was dismissed by the Land Tribunal. The same was confirmed in appeal. But C.R.P.No.146/82 filed before this Court was allowed remanding the matter to the Land Tribunal for consideration of the specific questions namely, (1) whether the tenancy in question was created within three months prior to 21/11/41 or during the period from 21/11/41 to 20/11/64 and if so (2) whether the petitioners possessed land below the ceiling limit. The scope and ambit of the remand order being limited to those questions no other question arises for consideration unless it be a case where such new question arose out of any new provisions introduced subsequent to the

remand order passed by this Court. Pursuant to the remand order passed by this Court, the Tribunal found both the questions in favour of the applicant and that tenancy was created during the period from 21/11/41 to 20/11/64. It is also found that the applicant possessed land below the ceiling limit. That was challenged by the petitioners before the Appellate Authority. The Appellate Authority, though re-appreciating the evidence on record, came to the same conclusion and confirmed the order of the Tribunal. It is the said order that is impugned in this revision.

2. The learned counsel, Sri M.A.Manhu, appearing for the petitioner would submit that the application is not maintainable. According to him, the lst respondent is only an intermediary and the applicant was a tenant under the Kovilakam, who sub leased it to the predecessor of the petitioners and as such he is not a landlord within the meaning of the defnition of the term. The petitioners cannot raise this contention at this stage nor does it arise for consideration. Earlier when the application was allowed and ultimately this Court remanded the matter to consider the specific points alone, the matter is not at large. Hence, both the Land Tribunal as well as the Appellate Authority are correct in their view that this contention cannot be raised at the instance of the petitioners herein, in view of the remand order passed by this Court limiting to the two

questions. Further even the definition of the term "landlord" under Section 2(29) of the Kerala Land Reforms Act does not support the contention of the petitioners herein. As per Section 2(29), "landlord" means a person under whom a tenant holds and includes a landowner. There is no dispute that the predecessor in interest was holding under the applicants. Going by the definition as far as the tenant is concerned, the applicant is the immediate landlord.

3. The next contention advanced by the learned counsel for the petitioners is that the respondent is not a member of the Armed Force to invoke the benefit of Section 30. The Appellate Authority entered a specific finding based on the document produced in the case that respondent was a member of Armed Force from 21/11/41 to 20/11/64 and discharged from Military Service subsequently. This is a finding of fact and no materials are placed to show that the finding is perverse. Hence this contention is also rejected.

In the result, the C.R.P. is devoid of any merits. It is accordingly dismissed. No costs.

qSd/-
P.R.RAMAN,
Judge.

kcv.